

§ 1470.30

performance improvement, is not adversely affected by the violation or the absence of other conservation activities that would have been installed under the contract, and the associated operation and maintenance requirement of the activity had been met.

(2) NRCS will have the option to reduce or waive the liquidated damages, depending upon the circumstances of the case.

(i) When terminating a contract, NRCS may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the existence of hardships beyond the participant's control that have prevented compliance with the contract. If a participant claims hardship, that claim must be well documented and cannot have existed when the applicant applied for participation in the program.

(ii) In carrying out its role in this section, NRCS may consult with the local conservation district.

Subpart C—General Administration

§ 1470.30 Fair treatment of tenants and sharecroppers.

Payments received under this part must be divided in the manner specified in the applicable contract. NRCS will ensure that tenants and sharecroppers who would have an interest in acreage being offered receive treatment which NRCS deems to be equitable, as determined by the Chief. NRCS may refuse to enter into a contract when there is a disagreement among joint applicants seeking enrollment as to an applicant's eligibility to participate in the contract as a tenant.

§ 1470.31 Appeals.

A participant may obtain administrative review of an adverse decision under this part in accordance with 7 CFR parts 11 and 614. Determinations in matters of general applicability, such as payment rates, payment limits, the designation of identified priority resource concerns, and eligible conservation activities are not subject to appeal.

7 CFR Ch. XIV (1–1–10 Edition)

§ 1470.32 Compliance with regulatory measures.

Participants shall be responsible for obtaining the authorities, rights, easements, permits, or other approvals or legal compliance necessary for the implementation, operation, and maintenance associated with the conservation stewardship plan. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the implementation of the contract.

§ 1470.33 Access to agricultural operation.

NRCS will have the right to enter an agricultural operation for the purposes of determining eligibility and for ascertaining the accuracy of any representations, including natural resource information provided by an applicant for the purpose of evaluating a contract application. Access shall include the right to provide technical assistance, determine eligibility, assess natural resource conditions, inspect any work undertaken under the contract, and collect information necessary to evaluate the implementation of conservation activities in the contract. NRCS shall make an effort to contact the participant prior to the exercise of this provision.

§ 1470.34 Equitable relief.

(a) If a participant relied upon the advice or action of NRCS and did not know, or have reason to know, that the action or advice was improper or erroneous, the participant may be eligible for equitable relief under 7 CFR part 635. The financial or technical liability for any action by a participant that was taken based on the advice of a Technical Service Provider will remain with the Technical Service Provider and will not be assumed by NRCS.

(b) If a participant has been found in violation of a provision of the conservation stewardship contract or any document incorporated by reference through failure to comply fully with that provision, the participant may be eligible for equitable relief under 7 CFR part 635.